

EXHIBIT M

Brian J. Flynn, M.D.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

Case No.: 2:13-cv-04457

MDL NO. 2326

VIDEO DEPOSITION OF BRIAN J. FLYNN, MD

August 29, 2014

BOSTON SCIENTIFIC CORPORATION, PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION

Related to

AMBER COMER.

A P P E A R A N C E S:

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<p>1 APPEARANCES: (Cont.)</p> <p>2</p> <p>3 For Witness:</p> <p>4 GREGORY R. PICHE, ESQUIRE</p> <p>5 Singularity Legal, PLLC</p> <p>6 3144 Newton Street</p> <p>7 Denver, Colorado 80211</p> <p>8 (303) 668-4240</p> <p>9</p> <p>10 Also Present: Adam Johnston, Videographer</p> <p>11</p> <p>12 Pursuant to Notice and the Colorado Rules of Civil</p> <p>13 Procedure, the video deposition of BRIAN J. FLYNN, MD called by</p> <p>14 Plaintiff, was taken on Friday, August 29, 2014, commencing at</p> <p>15 7:10 AM at 12631 17th Street, Fifth Floor, Aurora, Colorado,</p> <p>16 before Martha Loomis, Certified Shorthand Reporter and</p> <p>17 Colorado Notary Public.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE VIDEOGRAPHER: We are now on the record.</p> <p>2 My name is Adam Johnston. I am a videographer for Golkow</p> <p>3 Technologies. Today's date is August 29, 2014. The time</p> <p>4 is 7:10 a.m. This video deposition is being held at</p> <p>5 12631 East 17th Avenue, Room 5500, Aurora, Colorado. It's</p> <p>6 in the matter of Amber Comer versus Boston Scientific</p> <p>7 Corporation for the U.S. District Court, the Southern</p> <p>8 District of West Virginia. The deponent is Brian J. Flynn,</p> <p>9 M.D.</p> <p>10 Counsel, please identify yourselves for the</p> <p>11 record.</p> <p>12 MR. MCCRARY: My name is Sean McCrary with the</p> <p>13 Andrus Wagstaff firm in Denver representing Plaintiff</p> <p>14 Comer.</p> <p>15 MR. MYERS: Andrew Myers with Wheeler Trigg</p> <p>16 O'Donnell on behalf of Boston Scientific.</p> <p>17 MR. PICHE: Greg Piche here on behalf of the</p> <p>18 deponent.</p> <p>19 THE VIDEOGRAPHER: The court reporter is Martha</p> <p>20 Loomis. She will now swear in the witness.</p> <p>21 P R O C E E D I N G S</p> <p>22 BRIAN J. FLYNN, MD,</p> <p>23 having been duly sworn to state the whole truth, testified as</p> <p>24 follows:</p> <p>25 EXAMINATION</p>
Page 3	Page 5
<p>1 I N D E X</p> <p>2</p> <p>3 VIDEO DEPOSITION OF BRIAN J. FLYNN, MD</p> <p>4 EXAMINATION BY: PAGE</p> <p>5 Mr. McCrary 5, 128</p> <p>6 Mr. Myers 67, 136</p> <p>7</p> <p>8 DEPOSITION EXHIBITS: INITIAL REFERENCE</p> <p>9 Exhibit 1 Notice of Videotaped Deposition 5</p> <p>10 of Brian J. Flynn, MD</p> <p>11 Exhibit 2 Curriculum Vitae, Brian J. Flynn, MD 7</p> <p>12 Exhibit 3 University of Colorado Hospital</p> <p>13 2-28-11 Medical Records, Amber Comer 29</p> <p>14 Exhibit 4 University of Colorado Hospital</p> <p>15 4-8-11 Medical Records, Amber Comer 33</p> <p>16 Exhibit 5 University of Colorado Hospital</p> <p>17 4-6-12 Medical Records, Amber Comer,</p> <p>18 Bates No. 00001 - 00058 36</p> <p>19 Exhibit 6 Pathology of Explanted Transvaginal</p> <p>20 Meshes 49</p> <p>21 Exhibit 7 Polypropylene Vaginal Mesh Grafts</p> <p>22 in Gynecology 53</p> <p>23 Exhibit 8 American Urological Association</p> <p>24 Position Statement, Use of Vaginal Mesh for</p> <p>25 The Surgical Treatment of Stress Urinary</p> <p>Incontinence, BSCM04400016224 75</p> <p>Exhibit 9 University of Colorado Hospital</p> <p>Visit Summary, ComerA_Bolshoun</p> <p>Medical_000108 - 000123 119</p>	<p>1 BY MR. MCCRARY:</p> <p>2 Q. Good morning, Dr. Flynn. My name is Sean McCrary.</p> <p>3 I'm an attorney for one of your patients, Amber Comer.</p> <p>4 Did you receive a copy of a notice of deposition to</p> <p>5 appear today?</p> <p>6 A. I did.</p> <p>7 Q. I got a copy for you right here. We're going to</p> <p>8 mark that as Exhibit 1.</p> <p>9 (Exhibit 1 marked for identification.)</p> <p>10 MR. MCCRARY: Andrew, do you need one?</p> <p>11 MR. MYERS: No, that's fine.</p> <p>12 (BY MR. MCCRARY) Q. Do you see on the second</p> <p>13 page of that document, Doctor, it asked you to bring a couple</p> <p>14 of things with you today?</p> <p>15 A. I do.</p> <p>16 Q. Can we just go through those, and I'll ask you</p> <p>17 whether or not you brought each one of those requests on</p> <p>18 that document.</p> <p>19 A. Okay. So bullet point A, medical records and</p> <p>20 in-hospital records, I have that directly available.</p> <p>21 The University no longer has a paper chart. We</p> <p>22 have electronic charts. So I have my laptop here and access</p> <p>23 to Epic, which is our electronic medical record, EMR. So I</p> <p>24 have all those records readily available, and certainly I can</p> <p>25 print anything if you would like at any point.</p>

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Brian J. Flynn, M.D.

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<p>1 I do not have any photographs or slides or</p> <p>2 questionnaires. I don't have any information sheets. I</p> <p>3 don't keep any personal records on my patients; everything is</p> <p>4 a shared chart with the University so I don't have a personal</p> <p>5 office chart. Everything's the University of Colorado</p> <p>6 Hospital chart.</p> <p>7 In terms of billing statements and insurance</p> <p>8 issues, I don't have any copies of that. I have not had any</p> <p>9 correspondence with the Plaintiff electronically or written</p> <p>10 communication.</p> <p>11 And with respect to bullet point B, I don't have</p> <p>12 any emails to Boston Scientific as it pertains to this case</p> <p>13 or this product, Lynx. I do have a copy of my CV if you'd</p> <p>14 like me to submit that as an exhibit.</p> <p>15 Q. Sure.</p> <p>16 A. This is an updated copy. And I printed that out</p> <p>17 this morning, so that is the most recent copy of my CV.</p> <p>18 Let's see.</p> <p>19 Lastly, bullet point 3, I've never used this</p> <p>20 product Lynx, so I don't have any, any information for users</p> <p>21 or instructions to user, patient brochures, or marketing</p> <p>22 literature from Boston Scientific.</p> <p>23 Q. All right. Thanks, Doctor. And I probably should</p> <p>24 have asked you this at the outset, but have you ever been</p> <p>25 deposed before?</p>	<p>1 reconstructive surgery.</p> <p>2 I started out as an assistant professor and was</p> <p>3 promoted to associate professor at my eighth year. And I'm</p> <p>4 being considered for full professor.</p> <p>5 My practice is largely in female pelvic medicine,</p> <p>6 but I do male reconstructive surgery as well.</p> <p>7 Q. Okay. And correct me if I'm wrong. My</p> <p>8 understanding is that you receive a lot of referrals when</p> <p>9 other physicians around the region have mesh complications.</p> <p>10 Is that accurate?</p> <p>11 A. I receive a lot of referrals for a variety of</p> <p>12 complaints, mesh complications included.</p> <p>13 Q. Would you say that you see more mesh complications</p> <p>14 than most gynecologists or urogynecologists in this area?</p> <p>15 MR. MYERS: Objection to form.</p> <p>16 A. I see a lot of complications. I'm not familiar</p> <p>17 with what other people's numbers are. But I know I'm very</p> <p>18 busy in that part of my practice. It's a significant part of</p> <p>19 my practice. I've done -- I have an interest in that area.</p> <p>20 (BY MR. McCRARY) Q. Have you ever done any</p> <p>21 research involving pelvic mesh?</p> <p>22 A. Can you be more specific about research?</p> <p>23 Q. Have you ever performed any studies involving</p> <p>24 pelvic mesh?</p> <p>25 A. Clinical studies in terms of prospective randomized</p>
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<p>1 A. I have.</p> <p>2 Q. And so you're familiar with the process, and that</p> <p>3 you need to wait for me to finish before you answer? And if</p> <p>4 defense -- Defense Attorney has an objection you need to</p> <p>5 let him get that out there and the same with your attorney,</p> <p>6 before you give your answer?</p> <p>7 A. Yes. I'm familiar with the process.</p> <p>8 Q. Okay. In that case, why don't we start by just</p> <p>9 taking a look at your CV here. Is this the only copy you</p> <p>10 brought with you?</p> <p>11 A. I have an electronic copy right in front of me as</p> <p>12 well.</p> <p>13 Q. I'll go ahead and mark it and that way we'll both</p> <p>14 get a copy, and I'll let you look at that as you go.</p> <p>15 (Exhibit 2 marked for identification.)</p> <p>16 Q. And I just wanted you to give us a brief summary</p> <p>17 of your background, and how you ended up as a physician here</p> <p>18 today.</p> <p>19 A. Well, I'm Dr. Brian Flynn. And I am the co-</p> <p>20 director of female pelvic medicine reconstructive surgery at</p> <p>21 the University of Colorado. I'm associate professor here of</p> <p>22 surgery and urology.</p> <p>23 And I've been a faculty member here for more than</p> <p>24 12 years. I came here in 2002 after finishing my fellowship</p> <p>25 at Duke University in female pelvic medicine and</p>	<p>1 studies or industry sponsored studies, no. In terms of</p> <p>2 retrospective case series, yes, looking at my own experiences</p> <p>3 with mesh.</p> <p>4 I've looked at my experience using TVT Secur is</p> <p>5 one product that I've written about. And I've published</p> <p>6 videos on TVT Abbrevio. I have published a video on Prolift</p> <p>7 is another product that I've published a video on.</p> <p>8 And with respect to mesh complications, I've</p> <p>9 written about that. I've written two major articles. One</p> <p>10 was an update for the American Urologic Association. And</p> <p>11 another article was a recent article in 2013 I believe in the</p> <p>12 International Urogynecology looking at complications from</p> <p>13 midurethral slings.</p> <p>14 Most of my research is retrospective case series.</p> <p>15 It's not bench work. I've never done any laboratory work or</p> <p>16 bench science, or any kind of biomaterial scientific research</p> <p>17 on any of these products.</p> <p>18 Q. So does that then mean that you're essentially</p> <p>19 going back and looking at the cases that you've seen, and</p> <p>20 quantifying how often you see certain occurrences with pelvic</p> <p>21 mesh? Is that accurate?</p> <p>22 A. Yes, that's accurate.</p> <p>23 Q. Okay. And you mentioned that you did a video.</p> <p>24 What were you, what was the purpose of the video? Was it</p> <p>25 a training video?</p>

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Sandra Schumacher vs. C.R. Bard (200)

Brian Flynn, M.D.

10/30/2014

<p style="text-align: right;">Page 14</p> <p>1 Q. Have you ever reviewed any of the</p> <p>2 depositions in this case?</p> <p>3 A. I have not.</p> <p>4 Q. Any summaries of the depositions?</p> <p>5 A. No.</p> <p>6 Q. Have you reviewed any of Ms. Schumacher's</p> <p>7 medical records from other providers?</p> <p>8 A. I have reviewed records from Dr. Crane's</p> <p>9 office.</p> <p>10 Q. Do you maintain those as part of your</p> <p>11 chart?</p> <p>12 A. Yes. In the tabs called "Media" in the</p> <p>13 electronic medical record, any documents that were</p> <p>14 faxed or brought to us by the patient would appear</p> <p>15 there.</p> <p>16 So one document I brought here today is</p> <p>17 just the original op report from May 9, 2008 regarding</p> <p>18 her surgery.</p> <p>19 Q. We'll get more into the details later,</p> <p>20 but as a general matter, do you have any criticisms of</p> <p>21 Dr. Crane's treatment of Ms. Schumacher?</p> <p>22 A. Can you be more specific?</p> <p>23 Q. We can go in to more details later.</p> <p>24 A. Okay.</p> <p>25 Q. In preparation for the deposition, did</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. It asks you to bring certain documents</p> <p>2 with you today. I understand a lot of the medical</p> <p>3 records are maintained electronically, which I think</p> <p>4 we've obtained from the hospital. Do you have any</p> <p>5 other documents related to Ms. Schumacher's care?</p> <p>6 A. I don't keep any personal medical</p> <p>7 records. Everything we have is maintained by the</p> <p>8 University of Colorado Hospital. We don't have any</p> <p>9 kind of shadowed charts in the clinic or academic</p> <p>10 office. I don't have any emails or any notes or</p> <p>11 letters that are not part of the record.</p> <p>12 Q. And I understand you brought a few</p> <p>13 specific medical records with you today that involve</p> <p>14 your actual meetings with Ms. Schumacher; is that</p> <p>15 accurate?</p> <p>16 A. Yes. I have a copy of our initial visit</p> <p>17 consultation on May 9, 2014. I have a copy of the</p> <p>18 August 6 preoperative visit, and I have a copy of the</p> <p>19 surgical report that I performed on her on August 12,</p> <p>20 the pathology report from that date, and I believe</p> <p>21 that's it.</p> <p>22 The other records I have here with me are</p> <p>23 some of the notes from Banner Health, from McKee</p> <p>24 Medical Center, and operative reports from Dr. Crane.</p> <p>25 Q. Those are all records that are routinely</p>
<p style="text-align: right;">Page 15</p> <p>1 you review -- well, first let me ask you, do you</p> <p>2 understand that Ms. Schumacher was implanted with an</p> <p>3 Avaulta Solo anterior and posterior and an Align</p> <p>4 product?</p> <p>5 A. Yes.</p> <p>6 Q. Those are the subject of this litigation?</p> <p>7 A. Yes.</p> <p>8 Q. Did you review any information in</p> <p>9 preparation for today regarding those products?</p> <p>10 A. No.</p> <p>11 MR. BUHR: Let's mark for the record as</p> <p>12 Exhibit 3 -- I guess it would be the copy of notice of</p> <p>13 deposition.</p> <p>14 (Deposition Exhibit 3 was marked.)</p> <p>15 Q. (BY MR. BUHR) I know we sent this to</p> <p>16 your office, but I think you were mentioning off the</p> <p>17 record that you don't recall actually seeing this</p> <p>18 prior to today?</p> <p>19 A. Oftentimes I don't. My assistant Kathy</p> <p>20 Politas often will arrange these things. It's pretty</p> <p>21 recognizable as a deposition. So I always confirm</p> <p>22 with her that it is, in fact, a notice of deposition.</p> <p>23 And then, if so, she'll go ahead and schedule that.</p> <p>24 So I was certain I received it. I just hadn't seen it</p> <p>25 personally.</p>	<p style="text-align: right;">Page 17</p> <p>1 maintained by your office in the ordinary course of</p> <p>2 business?</p> <p>3 A. Yes.</p> <p>4 Q. I would like to, I think, attach all of</p> <p>5 those as Exhibit 4. We can kind of deal with the</p> <p>6 housekeeping of that maybe at a break or something.</p> <p>7 But I believe you also said that you have a few notes</p> <p>8 or things that you cut and paste --</p> <p>9 A. Yes.</p> <p>10 Q. -- pasted from some of the electronic</p> <p>11 records?</p> <p>12 A. That's this first document. It's five --</p> <p>13 maybe you want to list this as a separate exhibit, but</p> <p>14 it's a five-page document of notes. I kind of cut it</p> <p>15 and paste it from the UCH record just to try to get</p> <p>16 the key dates in front of me.</p> <p>17 MR. BUHR: I would like to attach that to</p> <p>18 the record, and maybe we can do that as Exhibit 5.</p> <p>19 (Deposition Exhibit 5 was marked.)</p> <p>20 Q. (BY MR. BUHR) I want to talk to you a</p> <p>21 little bit about your general practice. Do you have</p> <p>22 any estimate as to how many patients you typically see</p> <p>23 in a week?</p> <p>24 A. Typically around 75 patients.</p> <p>25 Q. And the case we're discussing today</p>